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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street N.W.
Washington, D.C. 20554

ORIGINAL
FILE

RE: MM Docket No. 92-11
RM 7881

Dear Ms. Searcy,

Please enter my opposition to a Petition for Reconsideration
filed by attorneys for Chapman S. Root Revocable Trust regarding
Channel 282-A Inglis, Florida.

Respectfully,

Lucille Ann Lacy

Lucille Ann Lacy
3507-A Van Tassel
Amarillo, TX. 79121
(806) 355-4554

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG 20 1992

MAIL BRANCH

In the Matter of)
Amendment of Section)
73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Inglis, Florida))

MM Docket 92-11
RM 7881

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OPPOSITION

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Pursuant to Section 1.429(f) of the Commission's rules, Lucille Ann Lacy (Lacy) hereby submits her Opposition to a Petition for Reconsideration filed by attorneys for Chapman S. Root Revocable Trust. In support of her Opposition, Lucille Ann Lacy states as follows:

1. On December 2, 1991, Lacy filed a petition with the Commission seeking the assignment of Channel 282A to Inglis, Florida as its first commercial service. On January 21, 1992 the Assistant Chief, Allocations Branch issued a Notice of Proposed Rulemaking which contemplated approval of the assignment which was requested.
2. The notice of proposed Rulemaking designated a period beginning March 23, 1992, and ending April 7, 1992 for interested parties to submit comments relating to the petition. This procedure, within the rulemaking process establishes the identity and qualification of parties to a proceeding, and provides for the orderly administration of rulemaking actions. In the instant case, no comment was filed by Chapman S. Root Revocable Trust, and thus, Root is not a party to this proceeding.

3. On May 19, 1992, the acting Chief, Allocations Branch issued a Report and Order allocating Channel 282A to Inglis, Florida, terminating the proceeding. Within the Report and Order, it was noted that Guy Gannet Publishing Company, and William D. Elliott filed supporting comments, and that no other comments were received.

4. Section 1.429 of the Commission rules details specific requirements relating to the filing of Petitions for Reconsideration. Section 1.429(1) requires that, "events have occurred or circumstances have changed since the last opportunity to present them to the Commission". Root makes no claim that any such changes have occurred. Additionally, 1.429(2) requires that matters to be raised "were unknown and could not have been known through the exercise of ordinary diligence". Again, Root offers nothing whatever which would qualify this petition as anything other than an unlawful Section 1.52 delay. The third requirement, Section 1.429(3) states that "any new facts relied upon be in the public interest". The Root petition openly states that the reason for its filing is personal self interest, not the public interest. In short, the Commission has not been presented anything to reconsider in this Petition for Reconsideration. Accordingly, it should be promptly dismissed. Any restrictions now placed upon Root's expansion plans are clearly a result of his own actions or inactions. It would be an aberration of fairness to penalize good-faith applicants in this matter in order that Root might get another bite at the apple.

5. The purpose of the comment period in rulemaking proceedings is so that interested and affected parties may express opinions, and submit exhibits which support or oppose a proposed allocation as a matter of public interest. As noted above, the Root petition contains no such public interest documentation, but rather contains a rambling description of what is in Root's own personal interest. It is obvious from the signature on the document that Root's experienced communications counsel prepared this frivolous filing, and it is inescapable that counsel knows the Commission's rules. Counsel knows, or should know, that this document does not conform to those rules, and it must then follow that the filing of this petition is nothing more than an attempt to delay the application proceeding in certain violation of 1.52 of the Commission's rules. Counsel is thus exposed to censure or suspension, pursuant to Section 1.24(2), as this conduct is unethical by definition. Section 1.52 states that, "the signature of an attorney constitutes a certificate by him that he has read the document, and that... it is not interposed for delay". Counsel openly states that the petition is filed to cause delay.

6. What is contained within Root's petition is an open admission of the clear speculation, and the substantial improbability of spectrum shuffling which would extend the coverage of Root's Lakeland FM facility. Root admits that this effort has been unsuccessfully pursued for many years, and actually rejected by the Commission in Docket 88-512. If, in fact the Inglis, Florida allocation did somehow cease to exist, Root seemingly contributes

that his plans for expansion are unlikely in any event. To be successful, he would have to successfully contract license matters with non-licensees, force unproven channel assignments upon a variety of stations, force site relocation, and site restrictions on other short-spaced stations (previously denied), and admittedly create potential illegal I.F. interference. None of the affected broadcast licensees has thus far agreed to any of Root's schemes. And notably, the FAA has not yet had an opportunity to examine the effects such juggling would have on air traffic safety.

7. In light of the speculative assertions detailed above, it is clearly unreasonable that Root seek to have the Commission substitute his 'possibly' increased coverage in place of the first broadcast service now approved for Inglis, Florida.

8. Finally, Root seeks to bring some measure of credibility to this petition by stating that Inglis, Florida is a "tiny community", and therefore not worthy of broadcast service. The Commission has however, had a long standing policy of not considering community size in allocations. This policy is stated with clarity within, "FM Assignment Policies and Procedures", 90 FCC 2d 88, 51 RR2d 807, 814 (1982).

9. In considering the burden created upon the Commission staff and legitimate applicants by filings such as this, the Commission should seriously entertain, upon its own motion, the possibility of sanctions when such blatant abuse of process occurs. Specifically prohibited by Section 1.52 of the Commission's rules are

"petitions...interposed for delay". Root's petition states in footnotes 1, page 3, "The present pleading is intended simply to prevent the Commission from allowing the Inglis, Florida allotment to become final, thereby precluding a channel switch by WRBQ-FM". Simply put, Root seeks to delay the allotment at Inglis, Florida while advancing his own interests, in obvious violation of Section 1.52.

WHEREFORE, Lucille Ann Lacy prays that the Petition for Reconsideration be promptly dismissed, that the filing period for Inglis, Florida remain open, and that submitted applications be processed in the normal manner. Additionally, Lucille Ann Lacy prays that the Commission take whatever other action it deems appropriate with respect to the filing of the petition by Chapman S. Root Revocable Trust.

Respectfully submitted,

Lucille Ann Lacy

Lucille Ann Lacy,
Petitioner for Inglis, Florida
3507-A Van Tassel
Amarillo, TX 79121
(806) 355-4554

CERTIFICATE OF SERVICE

I, LUCILLE ANN LACY, do hereby certify that a copy of the foregoing "OPPOSITION TO CHAPMAN S. ROOT REVOCABLE TRUST PETITION FOR RECONSIDERATION" was delivered by First-Class United States Mail, postage prepaid, to the following:

Mr. Michael C. Ruger
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W., Room 8322
Washington, D.C. 20554
Stop Code 1800D5

Mr. William D. Elliott
3015 Edsel Place
Charlotte, North Carolina 28205

Mr. John R. Feore, Jr.
Dow, Lohnes & Albertson
1255 23rd Street, N.W.
Suite 500
Washington, D.C. 20037



Lucille Ann Lacy